

VULPONE:

O R,

*Scotland vol 8.*

REMARKS

ON SOME

Proceedings in SCOTLAND,

Relating both to the

UNION,

AND

Protestant Succession

SINCE THE

REVOLUTION.

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*In a Letter to a Member of Parliament.*

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Printed 1707.



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# VULPONE:

O R

## The SCOTCH RIDDLE.

**T**O convince you, Sir, of that Mistake which some People labour so earnestly to possess you, and others with, that the delay of settling the *Hannover* Succession in *Scotland*, and the opposition made there, to the present Scheme of Union, proceeds from the aversion of the *Scots* to come into the same Succession with *England*, and to entertain an inviolable Friendship with our Nation; I shall acquaint you with some undeniable matters of Fact, that may be worth your consideration, and which, to me, do evidently prove, that the stops that have been hitherto put to the settlement of the Succession there, are not all chargeable upon the People of *Scotland*.

I shall begin with the first Session of Parliament there, after King *William's* Death, wherein it's to be observ'd, That, tho' there was no mention of the Succession in her Majesty's Letter, or in the Speeches of her Ministers to the Parliament, yet a Bill for an Oath to Abjure the *St. German's* Pretender carried a first Reading; but how it came afterwards to be quash'd the D— of Q— and his Friends, ought, I think, to account for; since there is no Doubt to be made, but it might have had the Royal Assent, and would have pay'd the Way to the Settlement of the Succession, by the delay of which, the Kingdom of *Scotland* lies under so much Blame, and the Peace of both Nations is subject to so much Danger.

I must also acquaint you with a very remarkable Defeat the Settlement of the Succession had in the first Session of this present Parliament in 1703. which, to the best of my Information, and I had it from very good Hands, was thus. The D— of

*Q*—— propos'd to the Earl of *Marchmont*, who was Chancellor of *Scotland* in King *William's* Time, but laid aside soon after his Death, that they should, together, use their endeavours to form a Party that Session for Settling the Succession. The Earl, who is a stanch Revolution-Man, frankly undertook it on Condition of Limitations and Secresie, till the Party was form'd, and the Project ripen'd, and that nothing of this Concert betwixt them should be talk'd of till they mutually agreed to it should. The D—— of *Q*—— promis'd this upon such Secresie as is usual betwixt Persons of Honour; the Earl applied himself with great Diligence, and prevail'd with about thirty of the Country Party to come into the Design, made a Report of it to the D——, and desir'd an Account of what he had done, which was just nothing at all. He gave some Excuses for it, with a Promise of pursuing the Design however, and keeping the Secret; but in a short time after, when the Earl came into the House one Morning, he was told of his Project by some of the Country Party, who charg'd him with a Design to break them: His Lordship was much surpriz'd to find himself thus Betray'd, and endeavour'd to evade the Thing: And while he was discoursing the Point, the D. being Commissioner, mounted the Throne, which put an end to the Conversation at that time. We may readily imagin that the E. must needs be uneasie till he had an opportunity of resenting this Treatment, which he did when the House rose, by going immediately to the D. and charging him with his breach of Promise, &c. The D. not knowing how to deny it, laid the Blame of divulging it upon another great Minister, to which the E. gave such a reply as was to be expected from a Person of his Zeal and Honour, and gave the D—— such a Rebuke, as I don't care to repeat.

On the 6th of *September* following, the E. that he might shew himself not to be asham'd of his Project, which was thus unhappily Betray'd before it could be brought to bear, gave in an Overture (as they call it) by way of Act, for Settling the Succession upon the foot of Limitations.

This Proposal being given in, occasion'd very great Debates and Heats in the House, and was Scandalously Treated and thrown Out, the Courtiers not having thought fit to join in it.

Yet during that same Parliament, they suffer'd an Act of *Peace* and *War* to pass, by which it is Enacted, ' That after the Decease of her Majesty and failing Heirs of her Body, no Person ' being King or Queen of *Scotland* and *England*, shall have the ' sole Power of making War with any Prince, Potentate or State, ' whatever, without consent of Parliament, and that no Declaration of War without such Consent, should be binding on the ' Subjects of that Kingdom.



The design of this Act appears by Mr. *Fletcher's* Draught of an Act of Security, and his Speeches in that Parliament, to have been to free them from the Prerogative (as he expresses it) of *English* Ministers over their Nation, and their Dependance upon the Court of *England*, which, he says, is the Cause of all their Grievances, comprehends them all, and is the Band that ties up the Bundle.

Now this being told so plainly and openly in Parliament about the 22d of *June*, and that Act not receiving the Royal Assent, till the 1st of *September* following, it can scarcely be reckon'd a Surprize upon the Ministry of either Nation, and considering the Power of the *Scotch* Ministry to defeat the other Limitations propos'd, and what Mr. *Fletcher* said of the Prerogative, the *English* Ministry had over their Nation; its strange that an Act which was look'd upon to be of the most dangerous Consequence to *England*, even by those that are now most for the Union, should have had the Royal Assent, especially when the Consequences of this Act to *England*, were plainly own'd by Mr. *Fletcher* in his Speech above mention'd so long before passing that Act, viz. 'That *English* Councils might not hinder the Acts of their Parliaments, from receiving the Royal Assent, that they might not be engag'd without their Consent in the Quarrels we might have with other Nations; that we might not obstruct the meeting of their Parliaments, nor interrupt their Sitting; that they might not stand in need of Posting to *London* for Places and Pensions, by which whatever Parliament Men may get, the Nation must always be a Loser; nor apply for the Remedies of their Grievances to a Court, where for the most part none are to be had.

And in another Paper Printed at *Edinburgh*, on that occasion entitul'd *A Speech in Parliament, touching Communication of Trade*. The Design of the Act is express'd thus. 'That our Neighbours of *England* must either be oblig'd and over-aw'd, to continue to us our communication of Trade, thereby to engage us in their Quarrel. Or otherwise if they should rob us of our communication of Trade we shall stand Neuters in the War, and shall thereby reap a vast advantage

And Indeed I cannot but observe, that this Act of Peace and War carries Difficulties along with it, not easie to be resolv'd by any *English* Man. It has been taken notice of in our Parliament, by Persons of all Parties as an Act of the greatest Danger imaginable to *England*, to such a degree, that a Gentleman of the long Robe did not scruple to say in the House of Commons (as I have heard) that if any *Englishman* advis'd or consented to that Act, he was guilty of little less than Treason, and some great Lords in the House of Peers were so apprehensive of this

this, that they openly declared that tho' they were then in the Ministry they gave no Advice or Consent relating to the passing that Act. Now how it came to pass that the Influence of *English* Councils and Ministry, that had Interest enough to defeat an Act of the Parliament of *Scotland*, for establishing their Company Trading to *Africa* and the *Indies* to the almost Ruin of that Kingdom, and which gave the first Rise to all the after Ferments in that Nation, should either consent to, or not be able to hinder the passing of this Act of Peace and War, when we know their Power was much greater than the Power of the Ministry that defeated that Act was, is that which some time or other I hope will be worth enquiring into. As also how it came to pass that the *Act of Succession* should be so much baffled as it was this Session, if the D. of Q. and the Ministry had been as much for it, as they were for the Act of Peace and War.

For its impossible, I think for any Man to believe that an Act of such mighty Consequence should ever be consented to, without Advice here, especially since not one *Scots* Minister of Note was here when the Act was pass'd. And its an old Maxim I have learned from a very great Man in his just and Modest Vindication of the Proceedings of the two last Parliaments of K. *Charles* the 2d. ' That there be many things plain and evident beyond ' the Testimony of Witnesses which yet can never be prov'd ' in a legal Way, and that when ever Affairs are ill ministred, ' the Parliament acting as the Kings great Council, they necessarily must and always have charged those who had the Administration of Affairs in the Kings Ear as the Authors of them ; ' if this way of representing things, were not allowed, its but ' to whisper Councils and Men are safe.

I must allow that Learned Gentleman Mr. *Fletcher* to be right in his Observation, That this Act does weaken the Power and Influence of the *English* Ministry over *Scotland* whenever it does take place, but yet I can't but observe that this Act does not take place till after her Majesties Demise, which may be an Argument with some People for an Union, for I never yet saw a Ministry but were willing to perpetuate their Power if possible ; so that what Power and Influence, they were in danger of losing after the Queens Demise, by this Act of Peace and War, they have again retriev'd if ever the two Nations come to be consolidated ; and perhaps that's none of the least Reasons, why it was press'd by the Ministry of *Scotland* with so much Violence.

It was also observable, That in that same Parliament, about the 16th of *September*, an Act allowing the Importation of all sorts of Wines and other Foreign Liquors was pass'd, tho' the Duke of *Hamilton* and others, protested against the allowing the Importation of *French* Wines and Brandy, as dishonourable to her

Majesty, inconsistent with the grand Alliance wherein she is engag'd, and prejudicial to the Honour, Safety, Interest and Trade of the Kingdom. And the Marquess of *Tweedale* in the Name of the Country Party, offered an equivalent, if the Courtiers would drop the Bill. Mr. *Fletcher* made also several Speeches against it, wherein he has these remarkable Expressions. ' The *French* would not receive our Goods in time of Peace, ' upon equal Terms with those of other Nations, which oblig'd ' us to forbid their Wines; shall we now take them at a double ' value in time of War, or are we become greater Friends to ' *France* now, in a time of open War, than we were before in ' time of Peace? But it seems no Wine will please us, but that ' of a Country, against which we are in actual War, and ' which uses us ill both in Peace and War. One would have ' thought that the past Services of a Nation which has more ' than once sav'd that base People from Ruin, might have ' oblig'd them to make a more favourable usage of us; but the ' World will say we are yet a baser People than they, if whilst ' they continue to suppress our Trade, we repeal a Law for ' which we have now more and better Reasons than when we ' made it. To repeal such a Law in time of War, will sound ' admirably well in *England* and *Holland*, since it is no less than ' a direct Breach of our Alliance with those Nations, a formal ' Renunciation of any Advantages we may pretend to in a Treaty of Peace, and exactly calculated to inform the World of the ' Inclinations of our Ministers.

' No Man in this House can be ignorant that this Act will not ' only open a Trade and Correspondence with *France*, contrary to the Declaration of War and our own standing Laws, but ' that the Design of those who promote the passing this Act, ' is to have a Trade directly with *France*, and Bribe Men to ' betray our Liberty. If any Justice were to be found in this ' Nation, the advisers of these things had been long since brought ' to a Scaffold.

It seems a very strange neglect in those, among us, who super-intend the Affairs of *Scotland* to suffer a general Indemnity to pass in that Kingdom, before the Meeting of the Parliament, which brought over many People from *St. Germans*, and gave them opportunity to promote that Interest, as appear'd soon after by the *Scotch Plot*; and to suffer that Parliament to conclude with an Act for opening a Trade with *France*, which has continued betwixt that Nation and *Scotland* ever since, and opens a free and uninterrupted Correspondence betwixt the Court of *St. Germans* and the disaffected Party in both Kingdoms, besides the opportunity it gives them of Exporting *English* Wool stole over the Borders, together with their *Scotch* Wool



Wool to *France*. But that which makes it more strange, is, that the weight of the Ministry should have carried that Act after such smart Speeches, and a Protestation against it, and a proffer of an Equivalent to the Courtiers to drop it.

It is no less strange, that in this same Parliament the Ministry should have allow'd to make void the Commission for treating of an Union with England, and discharging any other Commission for that End without their consent; but I shall leave this matter now till I have done with the Succession, and then shall resume it.

Its proper here also to observe, that in this Session of Parliament, which met about the 6th of May 1703, there was no mention made of the Succession in her Majesty's Letter, or the Speeches of her Ministers, which shews plainly, that the Union was not then in View.

The next defeat the Succession met with was in the Session of Parliament held by the Marquess of Tweedale as Commissioner, which begun about the 6th of July 1704, tho' her Majesty recommended the same in her Letter thus:

' The main thing that we recommend to you, and which we  
' recommend to you with all the Earnestness we are capable of,  
' is the settling the Succession in the Protestant Line, as that  
' which is absolutely necessary for your own Peace and Quietness,  
' as well as our Quiet and Security in all our Dominions, for  
' the Reputation of our Affairs Abroad, and consequently for  
' the strengthening the Protestant Interest every where. This  
' has been our fix'd Judgment and Resolution ever since we  
' came to the Crown, and tho' hitherto Opportunities have not  
' answer'd our Intention; matters are now come to that pass  
' by the undoubted Evidences of the Designs of our Enemies,  
' that a longer delay of settling the Succession in the Prote-  
' stant Line may have very dangerous Consequences; and a  
' Disappointment of it would infallibly make that our King-  
' dom the Seat of War, and expose it to Devastation and Ruin.  
' Her Majesty adds afterward, as to the Terms and Conditions  
of Government with regard to the Succession; ' We have im-  
' power'd our Commissioner to give the Royal Assent to what  
' in Reason can be demanded, and is in our Power to grant  
' for securing the Sovereignty and Liberties of that our ancient  
' Kingdom.

The Lord Commissioner and Chancellor in their Speeches to the Parliament, recommended the Succession with the same Earnestness as her Majesty had done; and the Earl of Cromartie, then Secretary of State, in his Speech to the same purpose, says,  
' The Honour of being her Majesty's Secretary obliges me to  
' obviate and remove an Aspersions on the Queen's Majesty's Can-  
dour



‘dour and Honour (if any such Insinuation be made) which is, that some  
 ‘would perswade others to believe, that the Queen has a secret Will  
 ‘in the Affair now before us, contrary to her Express Will reveal’d and  
 ‘declar’d by her in her Royal Letter. My Lord, I am perswaded she  
 ‘hates that Position in Theology, and I am certain she does so in her  
 ‘Politicks; and the reason of my certainty is this, that her Majesty  
 ‘did command me, and I think, her other Servants, expressly to assure  
 ‘this House, That nothing in her Service could please her better than  
 ‘if they should believe and obey her in what she proposes in her Letter,  
 ‘and nothing can displease her more than to do otherwise.

Its fit here also to observe, that our House of Lords in their Address  
 to the Queen about the 29th of *March 1704*, relating to the *Scotch Plot*,  
 offer’d it to her Majesty as their Opinion, ‘That nothing has given so  
 ‘much Encouragement to their Enemies at Home and Abroad, to enter  
 ‘into that detestable Conspiracy, as that after her Majesty, and the  
 ‘Heirs of her Body, the immediate Succession to the Crown of *Scotland*  
 ‘is not declar’d to be in the Princess *Sophia*, and the Heirs of her Body,  
 ‘being Protestants.

Their Lordships add afterwards, ‘And we do most heartily and unani-  
 ‘mously assure your Majesty, *That when your wise Endeavours for settling the*  
 ‘*Succession in Scotland shall have taken the desired Effect, we will do all in*  
 ‘*our Power to promote an entire and complete Union between the two Kingdoms*  
 ‘*of England and Scotland, for their mutual Security and Advantage.* To  
 which her Majesty answer’d,

‘My Lords, I have some time since declar’d my Intentions of endeavor-  
 ‘ing the Settlement of the Protestant Succession in *Scotland* to my  
 ‘Servants in that Kingdom, as the most effectual means for securing their  
 ‘Quiet and our own, and the readiest way to an entire Union betwixt both  
 ‘Kingdoms, in the perfecting of which its very desirable no time should be lost.

And here I can’t but take notice how the Notion of the Union should  
 get so much the start as it has done since of the Business of the Succession,  
 which her Majesty says, *Was the main thing she recommended*; and the want  
 of which, the Lords in their Address say, gave so much Incouragement to  
 Enemies at Home and Abroad to enter into that detestable Conspiracy. It  
 likewise deserves Observation, that the Succession was so much discountenanc’d  
 in the next Session of the *Scotch* Parliament, as to give ground  
 for what was complain’d of here afterwards by a Peer in our House of  
 Lords, that the Persons of the highest Quality, in that Kingdom, were  
 kept in whilst they appear’d against the Succession, and turn’d out when  
 they were endeavouring to promote it.

And it seems as strange to me, that this Union which was so gently  
 touch’d in the Address of the Lords, as the Consequence of the Succession,  
 and I think seem’d to be slighted till the *Scotch Plot* and *Gibberish*  
 Letters were discover’d, should be so violently press’d, and so much  
 prefer’d to the matter of the Succession, which the Lords say was our  
 Security; so that it looks like a struggle of Policy; and a Man may well

admire and say of it as the Midwife said of *Pharez*, one of *Judah's* unnatural Off-spring, *How hast thou broken forth, this Breach be upon thee?*

But to go on; when the Succession came to be propos'd, it was shamefully baffled and postpon'd by a Resolve for putting it off till the *Scots* had a previous Treaty with *England* in Relation to Commerce, and other Concerns; and tho' her Majesty had laid her Commands with so much Earnestness, as you have heard, upon her Servants to promote the Succession; yet two Officers of State, a Commissioner of Treasury, a great many of the Council and Exchequer, with Collonels, Lieutenant Collonels, Majors, Captains, Farmers and Collectors of the Revenue, and Pensioners that had no Bread to eat, but what they receiv'd from her Majesty, in all about thirty three, not only fell in with the abovemention'd Resolve, but solicited others to do the like. And it's observable, that some of those who appear'd against the Succession had but a very little before that time got into considerable Posts; and others of them had receiv'd Pensions by means of *D. Q.* during the last Month of his then Ministry, and they could not conceal their Hopes of being further prefer'd and gratifi'd for defeating the Succession in the Hands of the Marquess of *Tivedale*, &c. upon which they assured themselves *D. Q.* would be restor'd (as he afterwards was) and this made all those who had any Expectations from him, concur in the design of baffling the Succession.

There were some who likewise boasted of Assurances from *London* of mighty Concessions in Favours of *Scotland*, in case the Matter were referr'd to a Treaty. This gave the finishing Blow to the Succession, tho' the Marquess of *Tivedale* and his Friends reckoned themselves sure of carrying it, there being 96 whom they thought they might have depended upon till that very day, it was put to the Vote, and the number was much greater before.

From this it is reasonable to conclude, that had those whose concern it was to give her Majesty faithful Advice in this matter, put her upon making a more early and thorough Change in her *Scotch* Ministry, and advis'd to a better Choice of the Objects of her Bounty and Favour, the Succession had been infallibly carried in that Session of Parliament.

But the baffling the Succession was not all that was done in this Session to the prejudice of *England*; the *Act of Security*, which the Courtiers had Influence enough to hinder from having the Royal Assent the year before, tho' it was carried by 59 Votes, and had been debated with more Solemnity than any Act in *Scotland* for a hundred years past, had now the Royal Assent; upon leaving out the Clause, which made the Communication of Trade one of the Terms of their coming into the same Succession with *England*; nor was there indeed any great Reason for the *Scots* to insist upon that Clause, since they had carried a Resolve to delay the Succession till they had a Treaty with us relating to Commerce and other things; so that *England* was very little oblig'd to the Courtiers



Courtiers for leaving out that Clause, which, by the way, its fit to be observ'd, was insert'd in the Act, that pass'd the House when the D. of Q. was Commissioner, by the Courtiers themselves. And here it is proper to acquaint you, that I have very good Information that her Majesty empower'd her Commissioner to give the Royal Assent to the old Acts of her Grandfather of Blessed Memory, in 1641. allowing the *Scots*, according to their old Constitution, to name their Judges, Privy Counsellors, and Ministers of State in Parliament, which the Country Party insisted on, and Mr. *Fletcher* made so many Speeches about, as the only way to free the Nation from the Prerogative and Slavery, as he somewhere calls it, of our *English* Ministry, and from being oblig'd to make Application sometimes to Court Ladies.

Certainly its our concern to enquire how those, whose Business it is to look to the Interest of *England*, suffered this Act to have the Royal Assent. Was it not enough that the *Scots* had obtain'd an Act of having Peace and War at their own Disposal, but they must also have another to Arm and Discipline all their Men to make this Act good? Was there no Danger in granting this Act to a Nation so much provok'd in the Affair of their *African* Company, and *Darien* Colony, and who have made such loud Complaints of their ill Treatment as they call it by us in their Liberty, Trade and Religion, ever since the Union of the Crowns? Was not this the ready way to put them in a Condition to make Reprisals upon us for those real or supposed Injuries, or at least to oblige us either to maintain a standing Army, or to Arm and Discipline our People in the same manner; the latter of which would have been as displeasing to Courts formerly, as the other ever will be to the Country? and since the *Scots* Court did not think themselves secure without suspending the Exercise of that Act during this present Session of Parliament, does not that sufficiently justify our Complaints and Apprehensions of the Consequences of that Act at all times to *England*, so long as *Scotland* has any real or pretended cause of discontent with us?

Our House of Lords was so sensible of this, that about *December* 1704. they presented an Address to the Queen, which they begin thus, 'We, &c. having taken into our Consideration divers Acts of Parliament lately pass'd in *Scotland*, and duly weigh'd the many dangerous and pernicious Effects which are likely to follow from thence, as well in respect to the Trade, as to the present and future Peace and Quiet of this Kingdom, have thought our selves indispensibly oblig'd in Duty to your Majesty and our Country, to proceed in the most serious and deliberate manner to consider of the best Expedients for preventing and avoiding such great Evils; and as in order to this End, we are, with all diligence, preparing Bills, which in due time being offer'd to your Majesty in a Parliamentary way for your Royal Approbation, we hope may prove of good effect; so we think our selves at present bound to

‘represent to your Majesty as our humble Opinion, that it’s highly requisite for the Safety of this your Kingdom, that speedy and effectual Orders should be given for putting the Town of *Newcastle* into a Condition of Defence ; and for securing the Port of *Tinmouth* ; as also for repairing and strengthening the Fortifications of *Berwick*, *Carlisle* and *Hull*.

‘We do likewise beseech your Majesty, to cause the Militia of the four Northern Counties to be Disciplin’d, and to order the necessary Care to be taken for providing them with Arms and Ammunition, that they may be in a readiness for service upon occasion : And we do further humbly advise your Majesty, That a compleat number of your Regular Troops may be order’d to be kept upon the Northern Borders of *England*, and in the North Parts of *Ireland*.

To which her Majesty answer’d, ‘My Lords, I shall direct a survey to be made of the several Places mention’d in this Address, in order to lay it before the Parliament. What Forces can be spar’d from their Attendance here, shall be quarter’d upon the Borders, as they were last year.

In pursuance of this Address a Law was afterwards made by our Parliament to deprive the *Scots* of the freedom of *Englishmen*, to hinder their Cattle from coming into *England* ; and our Lords resolved, that Ships should be appointed to hinder their Trade with our Enemies, and to prevent their Exporting of Wool.

But there is another Clause in that Act relating to the Succession, which concerns us very near, and is a heavy Charge upon any *Englishman* that advised or consented to it, viz. ‘Providing aways, that the same be not Successor to the Crown of *England*, unless that in this present Session of Parliament, and any other Session of this or any other ensuing Parliament DURING HER MAJESTIES REIGN, there be such Conditions of Government settled and enacted, as may secure the Honour and Sovereignty of this Crown and Kingdom, and the Freedom, Frequency and Power of Parliaments, the Religion, Liberty and Trade of the Nation from *English*, or any Foreign Influence.

Now this being carried in the Session of Parliament which met in 1703. and not receiving the Royal Assent till the Session of Parliament which met in 1704. Our Courtiers could not pretend Ignorance or Surprize in the matter ; and since the Lives of Princes are as much, if not more uncertain than the Lives of others, especially where there are Pretenders to their Crowns, who make no scruple to Assassinate those in Possession ; the suffering this Clause to pass, was to put it absolutely in the Power of the *Scots* to refuse coming into our Succession, and to make use of the arming Clause granted them by this very Act, to make good their refusal ; and who is the Person that could assure us her Majesty should live so long, as blessed be God she has done, after passing that Act ?

That



That which makes this the more remarkable, is the very great Alteration that it makes in the Descent of the Crown of *Scotland*; for it is in effect a Bill of Exclusion, as it was called, to the House of *Hannover*. By the Act of the *Scotch* Convention, their Crown was entail'd on *Q. Mary*, and the Heirs of her Body, and failing them on her present Majesty, and the Heirs of her Body; and King *William* dying also without Issue, the Remainder went no further; so that the House of *Hannover* being the next Protestant Heirs, they had a Right to the Crown by the Prior Laws of that Kingdom, till by this Act they were formally excluded by having the Crown of *England* settled upon them, which certainly shews the great Obligation that Court has, and the great Confidence they ought to put in some Ministers, for excluding them of their then Right to the *Scotch* Crown by this Act of Security.

Another Act which past in this Session, was that for Exporting Wool, a thing which we have always been jealous of, as to our selves, and have endeavour'd to prevent by the severest Laws: And therefore it's strange this should not have met with effectual Opposition, since, under pretence of Exporting their own Wool they Export ours, which is stole over the Borders, as has been already mention'd. And here it may be justly observ'd, that had half the pains been taken to settle the Succession, and to prevent the abovemention'd Acts that has been taken to press a consolidating Union; the Settlement of the Succession might have been effected with much more Ease and greater Satisfaction to both Nations; for there were no Addresses nor Risings of the People against the Succession, as there have been against the Consolidating Union.

The next thing to be taken notice of is, that after this Session of Parliament was concluded, some of the chief of the *Scots* Ministry, who were most zealous for the Succession, as the Marquess of *Tweedale*, E. of *Rothies*, E. of *Roxborough*, E. of *Selkirk*, Lord *Belhaven*, Mr. *Johnstone*, then Lord Register, and Mr. *Baily*, of *Jerriswood*, Lord Treasurer Deputy, were laid aside. The D. of *A.* who was entrusted with the management of the next Session of Parliament, having insisted upon it, but by whose advice, he is best able to account for. Upon this the D. of *Q.* came again into the Administration, which shews that the hopes of his Party, who join'd in baffling the Succession, out of respect to him, as beforemention'd, were not ill founded: Then follow'd a Change of the Privy-Council, as well as of the Ministers of State; and matters being thus prepar'd, the next Session of Parliament begun in 1705.

Before the Parliament met, the new Commissioner appointed a meeting of several of the Ministers for concerting Matters, at which the Marquiss of *Anandale*, then Secretary of State; and Mr. *Cockburn* of *Ormeiston*, Justice Clerk, were not Summon'd to assist for some time. And when the other Ministers and they did meet, they differ'd in their Opinions as to the Measures they should follow in that Session; the two latter

latter, and Her Majesty's Advocate were for pressing the Succession, alledging for it, Her Majesty's having recommended it so earnestly last Year; and that it was Her Interest to have it settled, considering that the Peace and Quiet of Her Government depended upon it. But the Rest were against this, saying, They could not promise to get their Friends to come into it; for they would not make so short a Turn, having joyn'd in the Resolve last Year, ~~to prefer the Treaty to the Succession.~~ It was agreed however, That the Advocate should draw up the Arguments on both sides, and put it into the Commissioner's Hands to send to Court, whither it was sent or not he can best tell: But he seem'd not to approve of the Gentlemen's Zeal, who were for preferring the Succession. A Cabinet Council being soon after held, Six were for the Treaty, and Two only for the Succession, and Four of the Six were of the new Ministry. It was advis'd however, to send two Draughts of a Letter, and Instructions conformable to the two several Opinions, That Her Majesty might Sign which She thought best; and when Her Majesty's Letter return'd, it included both, but gave Preference to the Succession; yet the same was afterwards Postpon'd, not to say thrown out by the Courtiers. Soon after the Session was opened, the Marquess of *Anandale* offered a Proposal for the Succession, and one of the new Secretaries at the same time gave in a Resolve, in Order to Postpone it; the Tendency of which was to consider how Matters stood with *Scotland*, in Relation to the late Act pass'd here, prohibiting the *Scots Cattle, &c.* and depriving the Subjects of that Nation of the Privileges of *English-men*, if they did not come into the Union or Succession; but they delay'd their Proceedings to defeat the Succession for a while, till all their Forces were Muster'd; and that they had certain Notice that the D. of *Q.* was set out from *London*, and knew that all his Friends were come to *Edinburgh*. Then about the 17th of *July* they came to this Resolve, 'That they would not proceed to Name a Successor, till they had a previous Treaty with *England*, in Relation to Commerce, and other Concerns, which was follow'd by another Resolve, That before they proceeded to Name the Successor, they would make such Limitations and Conditions of Government for the Rectification of their Constitution, as might secure the Liberty, Religion and Independency of the Kingdom. It must be own'd, That these Resolves postpon'd the Succession with a Witness; yet none of the Courtiers Spoke against this Resolve, except the Marquess of *Anandale*, and Mr. *Cokburn*, the Justice *Clark*; and they were seconded by the E. of *Marchmont*, who said he look'd upon the first Resolve as an Exclusion; yet being put to the Vote, it was carry'd by about Thirty Seven, of which Thirty were the D. of *Q.*'s Friends.

However afterwards upon a Debate, Whither the Treaty, or the Consideration of Limitations for the next Successor should have the Preference, the Courtiers had a new Opportunity of carrying the Succession, which they were so far from improving, that they were quite out



out of Humour with it, and press'd forward the Act, empowering Her Majesty to Name Commissioners to Treat of an Union with *England*, after a previous Order that the *Scots* Commissioners should not meet those of *England* till we should first repeal the Clause in our Act above-mention'd of making the *Scots* Aliens, except they came into the Succession or Union by a prefix'd Time.

Thus you have seen how the Succession has from time to time been baffled by the *Scotch* Courtiers. And its observable, That the Marquess of *Anandale*, who was then Secretary of State for *Scotland*, and zealous for the Succession, was soon after this Session of Parliament laid aside in the same manner, as those of the Ministry had been, who appear'd Zealous for the Succession the Year before.

I come now to the UNION, K. *William*, in his Letter to the *Scotch* Convention of States in *March* 1689, says, 'We were glad to find 'that so many of your Nobility and Gentry, when here at *London*, 'were so much inclin'd to an Union of both Kingdoms; and that they 'did look upon it as one of the best Means for procuring the Happiness of these Nations, and settling of a lasting Peace among them, &c. And a little lower, 'We being of the same Opinion as to the usefulness of this Union, and having nothing so much before our Eyes as 'the Glory of God, the Establishment of the Reform'd Religion, and 'the Peace and Happiness of those Nations, are resolv'd to use our 'utmost Endeavours in advancing every Thing which may conduce to 'the effecting the same. And here its to be observ'd, That the States of *Scotland* were so far from any Thoughts of such an Union as is now propos'd in the Articles, That in their Letter about the 23d of *March* they Acquaint His Majesty, 'That they would with all convenient 'Diligence take his Gracious Letter into Consideration, and hop'd 'shortly by the Blessing of God to fall upon such Resolutions, as may 'be acceptable to His Majesty, secure the Protestant Religion, and 'Establish the Government, Laws and Liberties of their Kingdom, upon solid Foundations, most agreeable to the general Good and Inclination of 'their People.

'As to the Proposal of the Union (continue they) We doubt not 'Your Majesty will so dispose that Matter, that there may be an equal Readiness in the Kingdom of *England* to Accomplish it, as one 'of the best Means for securing the Happiness of these Nations, and 'settling a lasting Peace.

'We have hitherto, and shall still endeavour to avoid Animosities 'or Prejudices which might disturb our Councils, that as we design the 'publick Good; so it may be done with the general Concurrence and Approbation of the Nation.

Its proper here to observe, That before they return'd any further Answer to K. *William* about the Union, they proceeded about the 11th of *April* 1689, to settle their Government by their Claim of Right, where-

wherein frequent Parliaments, with Liberty to Sit, and Freedom of Speech and Debate, is one of the Articles.

Then on the 23d of the same Month they nam'd Commissioners to Treat with such as should be appointed by the Parliament of *England*, concerning the Union of the Two Kingdoms; and next Day they agreed upon a Letter to His Majesty, with the offer of their Crown, upon his agreeing to the Claim of Right, and taking their Coronation Oath, and in this Letter they express themselves concerning the Union thus.

' We are most sensible of Your Majesty's Kindness, and Fatherly Care to both your Nations in promoting their Union, which we hope has been reserv'd to be accomplish'd by you; that as both Kingdoms are united in one Head and Sovereign, so they may become one Body Politick, one Nation to be represented in one Parliament; and to Testifie our Readiness to comply with Your Majesty in that Matter, We have nominated Commissioners to Treat the Terms of an entire and perpetual Union betwixt the Two Kingdoms, with Reservation to us of our Church Government, as it shall be establish'd at the time of the Union. These Commissioners do wait your Majesty's Approbation and Call, that they may meet and treat with the Commissioners to be appointed for *England*, at what Time and Place your Majesty shall appoint; and we do assure our selves from your Majesty's Prudence and Goodness, of a happy Conclusion to that Important Affair, so as the same may be agreed to, and ratified by your Majesty in your first Parliament.

To the Objection which some make from these Expressions of the States of *Scotland* desiring to become one Body Politick, one Nation, and to be represented in one Parliament with us: I answer, That this will not infer their desire of such a Consolidating Union as in the present Articles, because this might either intend a joynt Common-Council or Parliament, by an equal number of Deputies from the Parliaments of both Nations, as Judge *Dodridge* proposed in 1604. like the States General in *Holland*, or the Diet of *Germany*, composed of Deputies from the several Princes and States, which make up the Body of the Empire; or as it was establish'd by these two Nations, during the Treaty of *Rippon*, &c. to keep up the Union that was then agreed on for the Prosecution of their Common Affairs by the Parliaments of both with the King's Consent; or, it might infer the calling of both Parliaments together, as was proposed by Sir *John Nisbet*, in the Name of the Scotch Commissioners, during the Treaty of Union in King *Charles II.*'s time for consulting upon the Common Affairs of the Nations, without diminishing one Member of either Parliament, which certainly would be the justest, and most reasonable way of representing them both in one Parliament, with relation to the Affairs of the Union only, without meddling with what relates to the particular Constitutions of either; but be that how it will, it is evident by the Rule laid down by the States



States of *Scotland* to regulate their Proceedings in settling their Government, and the Union then propos'd, viz. That they would avoid Animosities and Prejudices which might disturb their Councils; that as they design'd the publick Good, so it might be done with the general Concurrence and Approbation of the Nation. I say it's evident from this Rule. then laid down, that the Union propos'd by them could not be the Union, as now stated in the Articles; for they could never be so short-sighted as not to foresee what is now come to pass, that to agree to such a minced Representative, and give away the Birth-rights of their Lords, Barons and Boroughs, by subjecting them to be over-rul'd by a Majority of another Nation, must needs raise such Animosities as would disturb their Councils, and could never have the general Concurrence and Approbation of the Nation.

But to return to the History of the Union: On our part there was little more notice taken of it during King *William's* Reign, till towards the latter end of it, and then this motion proceeded from the great Discontents in *Scotland* occasion'd by their Treatment in the Affair of *Darien*, and the Remonstrances from that Kingdom by National Addresses, &c. against that Treatment; this occasion'd his Majesty, in his Answer to the Address of our House of Lords, in *Feb.* 1700. to put the House in mind of the Union he had recommended to them, after his accession to the Throne; and to desire that a Treaty might be set on foot to find out some happy Expedient for making them one People. Upon which the Lords fram'd and pass'd a Bill of Union, which was rejected by the Commons.

We heard no more of the Union till *March* 1702. when King *William* on his Death-bed sent a Message to the Houses to signify, 'That he 'had acquainted his Parliament in the first Year of his Reign that Commissioners were Authoriz'd in *Scotland* to treat with such Commissioners 'as should be appointed in *England*, of proper Terms for uniting the 'two Kingdoms, and at the same time expressed his great Desire of such 'an Union, His Majesty being fully satisfied that nothing can more 'contribute to the present and future Security and Happiness of *Eng-* 'land and *Scotland*, then a firm and entire Union between them; and 'therefore was extremely desirous that a Treaty for that purpose might 'be set on Foot.

Our Commons appointed one Day, and then another to consider this Message, but his Majesties Death on the eighth of that Month, prevented their proceeding any further in it.

By all this its very clear that the Union which *K. William* propos'd, and that the *Scots* here desired, was not the Union as it now stands in the *Scotch* Articles; for nothing can be more evident than that the *Scots* in all their desires of an Union, still had a regard to their own Constitution, so far as to be represented by their own Parliament, and to have their own Laws preserved; it was an Union that was to establish the Laws, Liberties and Government of the Kingdom, not either to weaken or put an end to them, but such an Union as might be most agreea-

ble to the general Good and Inclinations of their People, as they express it in their Letter to K. *William*; and not contrary to both, an Union like that of Marriage, not only honourable in it self, but where the Individuality of the Persons is preserv'd, and the great ends of Society taken Care of; not like the monstrous Union of an Hermaphrodite, where both Sexes are confounded, which is the Reproach and not the Advantage of humane Nature.

This is yet further evident from their Coronation Oath and claim of Right, which her Majesty Swore to when she took their Crown upon her; for by the Coronation Oath her Majesty was obliged, ' During the ' whole course of her Life, to govern that People according to the ' Liable Laws and Constitutions receiv'd in that Realm; the Rights and ' Rents, with all just Privileges of the Crown of *Scotland*, to preserve and ' keep inviolated, neither should she transfer nor alienate the same: And by their Claim of Right her Majesty was obliged, for preserving of their Laws, frequently to call Parliaments, to allow them to sit, and to secure the freedom of Speech and Debate to the Members, and the Nation from all other attempts upon their Religion, Laws and Liberties.

How far this Oath may be obliging I shall not take upon me to say, but it may perhaps puzzle a good Casuist to find out a distinction to dissolve the obligation of an Oath, which is the free Choice of a Prince, and which they voluntarily Swear to without any Force or Constraint, in the presence of the Eternal God, as the *Scotch* Oath words it.

But suppose the very Union those Articles mention was the Union desired, which its plain it was not, its very strange that those Persons who were then in the Ministry, have now so much favour, and are so very forward for it, took so little notice of it as not to nominate any Commissioners on our Part for so long a time, to meet with those appointed by *Scotland*, if an Union be a matter that does necessarily carry such Security, Tranquility, Peace and Plenty to both Nations; but perhaps they did not see then so clearly into things as they have done since, and that some new Arguments have been made use of to convince them, for we know Time and Experience teaches Wisdom.

And it's as unaccountable to me that the former Act of the States of *Scotland* in 1688. that nominated Commissioners who were then in being, to treat with Commissioners from *England* should be broken and an Act of Parliament enabling the Queen to nominate Commissioners should be made, when the old Commission might have serv'd as well, unless it was that new Commissioners were more proper for a new Scheme of Union. Some other Persons perhaps may be able to give a Reason why the *Scots* should not have the Union they desir'd, when they ask'd it, and have an Union thus hardly press'd upon them, they never desir'd, and are so generally averse to; tho' to me it's a very great Mystery, unless by some great fatality on that Nation, for certainly it's impossible it should proceed from Reasons of State, from the falseness of that Nation to their own Interest, from the ascendant that other People have over their Ministry and Councils, or from

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a desire of getting, or fear of losing Employments there, that the *Scots* are never to have what they desire, but always to meet with what they dislike.

When her present Majesty came to the Crown, in *April* following, she was graciously pleas'd in her Letter to the Parliament of *Scotland* to take notice of the 'Address they had presented to the late King 'about *Darien*, and other Affairs, which she had considered, and signify'd her Resolution to maintain their Sovereignty and Independency 'against all Encroachments; and that she would be equally tender of 'the Rights, Prerogatives and Liberties of their Crown, as of ours, 'and would take care to avoid all occasions of misunderstanding betwixt them; and for that end would think it her Happiness to establish 'an entire Union betwixt us, upon an equal and just Foundation; and the 'Parliament of *England* having shewn so good Inclinations towards it, 'she expected the like on their part. Her Majesty also promised to do 'all that could be reasonably propos'd, for repairing the Losses of their 'Company trading to *Africa* and the *Indies*, and to protect them and 'promote their Trade, and that of the whole Nation. By all this, it's still apparent that the Union then propos'd, was not according to the present Scheme, which dissolves the Monarchy of *Scotland* with their Parliament and *African* Company.

The *Scotch* Parliament being adjourned, met again in *June*, and her Majesty in her Letter to them, dated the 15th of *May* preceeding, took notice again of the Union propos'd by the late King, 'And that our 'Parliament having empower'd her Majesty to name Commissioners to 'treat of the said Union, she did not doubt but the *Scots* would do what 'was necessary on their part, and promis'd her utmost Endeavours towards the accomplishment of it. But the legality of this Session of Parliament being called in Question by the *Scotch* Country Party, who alledged it was not called according as it ought to have been by an Act of Security that pass'd in King *William's* Reign; The Duke of *Hamilton* and the rest of the Country Party withdrew from it. The Courtiers went on, however, after another Adjournment, and without any regard to the Act of the States still in being, nominating Commissioners to treat of the Union, they dissolv'd that Commission, and appointed another; so that whatever the Scheme was in King *William's* time, this put an end to it.

The Commissioners of both Nations, according to this new Commission, met about the Union in *December* following, and it appears very plainly by their Proceedings, that there was more care taken of the Monarchy, than seems to be by this present Scheme; for the first Article of that Union propos'd by the Lord Keeper, as it is set down in the History of *Europe*, Anno 1702. pag. 460. runs thus, 'That the two 'Kingdoms should be inseparably United into one Monarchy under her 'Majesty, her Heirs and Successors, &c. but this is left out of the first Article of this Treaty. The *Scots* also propos'd greater Reservations to

themselves, with respect to the *English* Imposts and Debts, and as to their *African* Company, than they have now done; nor does it appear that there was ever any such Scheme Propos'd and Agreed to by the Commissioners of either side in 1702. as is contain'd in the present Articles, which have rais'd such a Ferment in *Scotland*, and for the Truth of this, I dare appeal to any one Person that was then in the Commission.

That Treaty we know broke up without any Effect, and it was observ'd, that some of the *Scotch* Commissioners who, during the same, appear'd most zealous for the Protestant Succession, were laid aside, and succeeded by others of the contrary Stamp.

To resume the Thread of my Story, the then Parliament of *Scotland* being dissolv'd, another met at *Edenborough* in *May*, 1703. the Duke of *Queensberry* Commissioner, and no mention was made by the Queen or her Ministers either of Union or Succession; but on the contrary, the *Scots* Parliament was suffer'd to dissolve the Commission for the Union, and to discharge any other Commission for that End without their Consent, so that we heard no more of it till the Act of both Parliaments, which set the present Treaty on foot.

As to which I am very well inform'd that the Kingdom of *Scotland* was much dissatisfy'd; first, because a Motion in their own Parliament for giving Instructions to their Commissioners how to proceed, and for saving their Fundamental Constitution, as in the time of their King *James* 6th. and our 1st, was reject'd by the influence of the Court there; and in the next place, because the Commissioners appointed on the part of *Scotland*, were neither equal in Dignity or Ability to those appointed on the part of *England*. The *Scots* were also dissatisfy'd that the Articles of the Treaty, when concluded, should have been kept so much a Secret, and not communicated to the Nation that they might have given their Members of Parliament Instructions about it.

But it's evident that the Body of the Nation never apprehended that their Parliament would have gone into such a Scheme as they have now approv'd; for as my Lord *Beilhaven* observes in his Speech of the second of *November* last, they had changed their Notion of an Incorporating Union into that of a Federal one, (tho' by his Lordship's leave it does no where appear, that ever their Parliament had the Notion of an Incorporating Union in the present Sense) and I am confirm'd in this, by what his Lordship says immediately after that by the Proceedings even of this present *Scotch* Parliament until now, their Design seems to have been a Federal Union, because in the last Session of Parliament after her Majesty's Letter was read, desiring them to declare the Succession in the first place, and afterwards to appoint Commissioners to treat of the Union, they renew'd their former Resolve, That they would not proceed to name the Successor with *England* till they had a Treaty with us, in relation to their Trade and other Concerns; and that in the same Session of Parliament, they resolv'd to proceed to such Limitations and

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Conditions of Government for the rectification of their Constitution, as might secure the Liberty, Religion and Independency of their Kingdom, before they nam'd the Commissioners of the Union.

Now, since it appears that this Resolve agreed with her Majesty's Answer to the House of Lords, *viz.* ' That the Settlement of the Protestant Succession was the most effectual means for securing their Quiet and our own, and the readiest way to an entire Union betwixt both Kingdoms; in the perfecting of which, it was very desirable no time should be lost; and since their Lordships did likewise in their said Address give the Succession the preference to the Union, and seem'd to have made the Settlement of the Succession a Condition of their coming into the Union, it certainly deserves our Enquiry how it came to pass that the Union should have the preference to the Succession, contrary to her Majesty's declared Judgment, and the Resolve of our House of Lords.

We have so much the more reason to make this enquiry, since it's plain by the event, that the Union upon the present foot can never be called entire, because there are Addresses from almost all the Counties and Burroughs of *Scotland* against it, besides the Dissatisfaction testify'd with it, by so many Members of Parliament, and the three greatest Communities of that Nation, *viz.* The Commission of the general Assembly, which is the present Representative of their *Kirk*, the Convention of the Royal Burroughs, which is their third Estate of Parliament; and the Council General of their Company trading to *Africa* and the *Indies*, towards which, the greatest part of their Nobility and Gentry are Subscribers; but since nothing can make it better appear how ungrateful this Treaty is to that whole Nation, and how dangerous it may be to the quiet of both, then the following Protestation by the Duke of *Athol*, I shall here insert it at large.

### *Protestation by the Duke of Athol.*

**W**Hereas by my Protest, given in the 4th of *November*, last, before Voting the first Article of the Union, I did reserve Liberty to renew Protestations against any of the Articles of the Treaty, and as I protested for the Reasons therein mentioned, so I do now for my self and all others who shall Adhere, Protest against any Vote for approving the Second Article of the Treaty of Union, and against the hail parts thereof for these Reasons.

1. Because the Peers of this Realm, who are hereditary Members of her Majesty's Council and Parliament, do hereby become Elective, and so her Majesty is depriv'd of her Council, and the Peers of their Birth-right. And whereas they are now 160 in number, they are reduc'd to 16, which 16 are to be join'd to the House of Lords in *England*, whose

whose number at present consisteth of above 180, whereby it appeareth that the *Scots* Peers share in the legislative and judicative Powers of the *British* Parliament, is very unequal with that of the *English*, tho' the one be Representatives of as Independent and free a Nation as the other, and it is a plain forfeiture of the Peerage of this Kingdom.

2. And as it is the height of Injustice, and against all the Laws and Practiques of this and all other well govern'd Nations, to forfeit any Person without a Hainous Crime, so it is against all Law to forfeit either the Peers that are now here present, or those that are absent, or Minors, without so much as being called or cited for that end.

3. It is likewise contrary to the Honour and true Interest of her Majesty and Monarchy, to suppress the Estate of Peers, who have formerly been the great Supporters of Monarchy.

4. And it is dishonourable for this Kingdom, that the Peers thereof shall only have Rank and Precedency next after the same Orders and Degrees in *England*, without regard to their Antiquities and Date of their Patents, as is stipulated by the following Articles of the Treaty.

5. In the next place every Shire and Burgh Royal within this Kingdom have the number of their Representatives determined by Acts of Parliament, whose number at present being 155, are by this Article of the Treaty reduc'd to 45, and to be joyn'd to 513 Members of the House of Commons in *England*, where they can have no influence by reason of the vast disproportion of their numbers; besides, That the Barons and Heretors of this Nation by this way of uniting are depriv'd of their Inherent Right of being fully and individually represented in Parliament, both with respect to their Legislative and Judicative Capacity; and they are not only highly prejudg'd in lessening their Representation, but also degraded from being Members of Parliament of this Kingdom, where they sit in all Causes as Judges, Civil and Criminal, to be joyn'd to the Commoners of another Nation, who are accustomed to supplicate for Justice at the Bar of the House of Peers.

6. The Barons and Burrows are also further prejudg'd in this, That whereas now every Shire and each Royal Burrow have their own Representatives, one Commissioner will hereafter Represent several Shires or Burghs, who it cannot be supposed will understand the several Interests and Concerns of the said several Shires or Burghs whom he may Represent.

7. And further, for the present Representatives of Barons and Burroughs in Parliament to offer by any Vote of theirs to Incapacitate their

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their Constituents, and to deprive them of any part of their Inherent Right, is that which their Constituents may and do justly disallow, they only having their Commission with the ordinary Power of making and amending Laws, or to give Supplies, but no way to alter Fundamental Constitutions, or to take away or diminish their Representation, which is also a plain forfeiture of their Constituent's inherent Right, and undoubted Privilege, and is contrair to the Fundamental Laws of this Nation, which are the Birthright of the People thereof.

8. From all which it is evident and plain, that this, from a Sovereign and Independant Monarchy, shall dissolve its Constitution, and be at the disposal of *England*, whose Constitution is not in the least to be alter'd by this Treaty: And where it is not to be supposed the *Scots* shall have any weight in the making of Laws, even tho' relative to their own Kingdom, by reason of the vast disproportion and disparity of their Representation aforesaid.

And therefore I do also protest, That no Vote may hinder nor prejudice the Noblemen, Barons and Burgesses as now represented in Parliament, to retain, enjoy or bruik and exerce all their Rights, Liberties and Priviledge as fully and freely as hitherto they enjoy'd them.

And since it evidently appears not only from the many Protests of the Honourable and Worthy Members of this House, but also from the multitude of Addresses and Petitions from several parts of the Kingdom, of the Barons, Freeholders and Heretors, Buroughs and Commons, and from the Commission of the General Assembly, that there is a general Dislike and Aversion to the Incorporating Union, as contain'd in these Articles; and that there is not one Address from any part of the Kingdom in favour of the Union.

I do therefore protest further against concluding this and the following Articles of this Treaty, until her Majesty shall be fully informed of the Inclinations of her People, That if her Majesty think fit she may call a new Parliament, to have the immediate Sentiments of the Nation, since these Articles have been made publick, where it's hop'd they may fall upon such Methods as may allay the ferment of the Nation, satisfie the Minds of the People, and create a good understanding betwixt the two Kingdoms, by an Union in Honourable, Just and Equal Terms, which may unite them in Affection and Interest, the surest foundation of Peace and Tranquility for both Nations.

And this my Protestation I desire may be received to be Recorded in the Minutes and Books of Parliament, as a Testimony of my Dissent, and the Dissent of such as will adhere to me.

Besides what's said in *this Protestation*, &c. the danger of breaking the Peace of the two Nations by this Treaty, appears very plain by the extraordinary Methods the *Scotch* Court and Parliament were obliged to have Recourse to for their own Safety while they proceeded to ratifie this Treaty, such as calling in their standing Forces to guard them, contrary to the  
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Nature of a free Parliament which acts according to the Inclinations of the People whose Guardians they are, and contrary to the Privileges of the City of *Edinburgh*, and of the Lord high Constable of *Scotland*. It appears also by their Proclamation against Mobs, which empowers the Soldiers by a very extraordinary Clause to fire promiscuously upon all whom they find in the Streets, pardons them for any Slaughter they shall commit in so doing, and discharges the prosecution thereof Civilly or Criminally in all time coming. It appears further by their being forced to repeal the rendevouzing Clause of their Act of Security, and by their Proclamation against the People's meeting in Arms for Discipline by vertue of that Act, until this Session of Parliament be over, and by their yet more extraordinary Proclamation against their Gentlemen and Freeholders coming to Town to confer with their Representatives, and to enquire why their Addresses against this Union were not regarded.

These Things make it evident to a Demonstration that the Peace of both Nations is in Danger by this consolidating Union; and it may perhaps deserve our enquiry, whether some of our great Men here, have not had positive Information from some of the greatest Men there, that it will be impossible to bring that Nation into the present Scheme without a Conquest and standing Army, and if that should happen to be the Case, we may easily foresee what the Consequences may one Day be to *England*.

Upon the whole, it seems to me that whatever the *Scotch* Parliament have done, it would be Safer for us to keep to the Judgment of her Majesty, and the House of Lords, and give the Succession the Preference, as the readiest Way to an entire Union; for since the generality of the *Scots* are for that Expedient, Her Majesty has no more to do but to renew her Commission to pass those Limitations the *Scotch* Parliament agreed on formerly, (their Arming Act, and that of *Peace* and *War* excepted) which at once secures the Protestant Succession, and allays the dangerous Ferments in *Scotland*. At the same time a new Treaty of Union may be set on foot, according to the Offer of the *Scots* to Unite the Nations in such things as they are Unitable; and to this end it would seem proper that our Parliament should call for all the former Treaties of Union that have been betwixt the two Nations, that we may see the Sentiments of our Ancestors, and be appriz'd of the Dangers they apprehended from the Unions then propos'd, which made them avoid falling in with them, and particularly that of 1604. tho' the *Scotch* Parliament pass'd it. For my own part I cannot see any necessity of a further Union, than that which may secure their coming for ever under the same Sovereign, and their perpetual Concurrence with us in *Peace* and *War*, and this the *Scots* would readily comply with, upon a communication of Trade with due Regulations, as appears from their present Addresses, and the Proceedings of their Parliaments formerly.

I cannot but think this a much safer and easier way of Uniting us than the present Scheme, which to me seems to carry with it a manifest

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Danger to the *English* Constitution both in Church and State. My Reasons are.

That the 61 *Scotch* Members may, in all probability, be much easier prevailed upon to join with any succeeding Court, in altering our Constitution in both respects, than the Majority of their whole Parliament has been brought to subvert their own; for I can't see what the Majority of their Lords will stick at, who have so voluntarily given up their Precedency to all ours of the same Rank; though in all their Votes or Minutes, as they call them, it appears they have always fiercely contended for the *pas* among themselves, and that even now when they have no prospect of any more Parliaments, the Dukes of *Hamilton*, and *Douglas* just at the end of the Session, contend for the Precedency of Voting, for which the latter put in his Claim, tho' he be not capable of sitting in the House yet for 7 or 8 Years, as I am inform'd, because of his being a Minor: Besides, it's known to every Body, that the date of the Patent used to determine the Matter among all Peers of one and the same Kingdom, and such we are now by the Treaty. But that which to me is as great a Proof as can be of the readiness of the Majority of the *Scotch* Peers to comply with the designs of any Court, is their parting so tamely with their Birthright of sitting in Parliament, the greatest Dignity, as well as Advantage, of being a Peer; and indeed the greatest Security to the Monarch, as well as for the Honour, Estates and Lives of themselves and their Fellow Peers; for by their hereditary Right of Legislature and Judicature, they are capable of defending themselves and their Friends, and of supporting the Constitution, when attack'd, by aspiring Courtiers or factious Commoners.

Now, tho' the sixteen *Scotch* Peers be brought into your House, by Election from among themselves, to me it seems threat'ning to our Constitution, for the Majority of their Peers being poor, they are liable to Temptation, or may be brought either to Vote or Elect, for those who are most capable of giving them Places and Pensions; but this is not all, many of their Lords have great Power over their Burroughs, which influences the Election of Burgeffes; and since our *English* House of Commons have always been so careful to prevent the influence of our own Peers upon the Choice of Members for their House, it's reasonable to suppose that they have more ground to be Jealous of the influence of the *Scotch* Lords. And here I must observe by the way, that the Power of the *Scotch* Peers over their Commons, who have always complain'd of its being too great, and for most part not used with much Moderation, is by the *Scotch* Articles enlarg'd instead of being diminish'd, for to their feudal Superiority, which those Articles confirm, they have added the Privilege of



*scandalum Magnatum*, which rivets their Power over their Commons, and gives them greater Power over their Elections than ever.

Besides, in my Opinion, the mighty complaisance of the Majority of the *Scotch* Peers in rejecting a Proposal in their own Parliament, of allowing the rest, besides the 16 to sit in your House with their Hats on, and assist at the Trial of Peers, seems to threaten our House of Lords, for those complaisant Gentlemen, who have so little regard to their own Peerage, can never be suppos'd to be zealous for ours, but may, in time, if any such thing come ever to be urg'd by a Politick Prince, or by a General back'd with a powerful Army, join in procuring a Vote for making the Peers of *England* as useless as they have done their own, as was practis'd here in *Oliver's* Time, and as was practis'd also in *Denmark*.

The Danger that may arise to our Constitution from the 45 *Scotch* Commons is evident in part, from what has been said of their Peers; to which may be added, that those Knights of Shires and Burgesses, who, contrary to the express Instructions of their Electors, have given up their own Constitution, are not like to be more zealous for ours, but in all probability may be gain'd by the like Methods to concur with any future Prince in forming a new Scheme of Government here, as they have done at Home; and there's the more Reason to suppose this, because no Constitution could be better fenc'd than that of *Scotland*, as appears by the Protestations of their Country Party in Parliament, who refer to several Laws, making it no less than High Treason to alter or innovate the same; yet so resolute was the Majority of their Parliament in the pursuit of Innovations contrary to those Acts, that they would neither regard the Addresses of their own Country against this Consolidating Union, nor allow one from the Members of their own House, to lay the threat'ning Ferments of the Nation before her Majesty, in order to obtain a recess, to calm the Minds of the People, and give them time to consider well the present Scheme, or to offer any other. How can the *English* Free-holders like such a Parliament? Or how can they expect that the *Scotch* Commons will have any more regard to their pressing Instances on any occasion, than they have had to those of their own, when as appears by their Votes they rejected almost every thing propos'd for the advantage of their Country.

Further to me it is evident, that any Court who will be at the Pains and Expence, may easily get the Choice of all the 45 *Scotch* Commons, by their influence over the chief Electors, and by setting up Competitors at every Election; but if I don't mistake the 22d Article, I think



no future Ministry needs must put themselves to the Trouble or Expence, for the choice of any of those 61 Representatives, since they have a much shorter way chalked out by this Article; for according to the Practice of late Ages, the Cabinet is made the Privy Council, and according to this 22d Article, the Privy Council must make the return; for tho' the method of chusing the 61 Members is referr'd to the future determination of this Session of the *Scotch* Parliament, yet they have no Power ~~to~~ <sup>over</sup> the method of returning, for that Power is ratified to be in the Privy Council of *Scotland*.

But because Arguments which are drawn from Men's own Experience are always strongest, I shall give an Instance that has not yet been taken notice of by any Person, to shew the unreasonableness and danger of this Method of returning the Members by the Privy Council.

Those who have had the Honour of sitting for Burroughs here in *England* that chuse by Prescription, and had all endeavours us'd in the latter end of King *Charles* and King *James's* Time, to prevent their sitting in Parliament, among whom I am not ashamed to say I was one, know that the only thing that secur'd their Election, was, that the Court could not come at the returning Officer, and that the chief Design for which, the project of Surrenders and Garbling Corporations was set on foot, was to put the Power of the returning Officer into the Hands of the Ministry, which, if the Majority of the Representatives of the Burroughs by Prescription, and of Knights of Shires, returned by Sheriffs, had not prevented, that Design had took Effect, to the utmost endangering our Constitution; because, tho' Men were never so unjustly chosen, yet the the Return gives them a Right to Sit, and then they were Judges of all the rest that were as unjustly chose as themselves. They had indeed a Right to bring their Action afterwards, but how little would that have signify'd, when the Judgment of the House of Commons was, that they were rightly Chosen, and so their Elections was approv'd by the House? but here it is stronger, for suppose any Peer or Commoner should be never so justly Chosen, according to the *Scotch* Act of Parliament, and the Privy Council should return any other, I would fain know against whom that Lord or Commoner has his Action?

Now I would fain ask any *Whig* that liv'd in the latter end of King *Charles's* Reign, and in King *James's* Time, whether or not they did not think that the Surrendering of Charters, and Garbling of Corporations, was not tearing up the Foundations of *English* Liberty, the Fundamental Laws of Parliament, and the Security of our Constitution? and if any *Tory* should be of the same Opinion now, I would again ask

these Gentlemen, whether *duo cum idem faciunt non sunt idem*, and who's the Whig now, that they value themselves so much upon?

For the further Confirmation of the Danger of this Method of returning the Members of Parliament from Scotland, I shall transcribe what the Author of the seasonable Reflections printed in 1689, Fol. 21. says on this Subject ;

'By this late hatch'd Invention of getting Surrenders of the Judgments against Corporations, it is ~~done~~ but that the King should quickly have a House of Commons absolutely at his Service and Devotion; and this can never be denied me, if the Reader will but look over the two Orders I have here Subjoin'd, that the King was pleased to Issue forth the same Day with his gracious Proclamation for restoring Corporations to their Ancient Charters, Liberties, Rights and Franchises. The Orders follow.

*At the Court of Whitehall the 17th of  
October, 1688.*

PRESENT

The Kings most Excellent Majesty,

His Royal Highness Prince George of Denmark.

Lord Chancellor

Lord Privy Seal

Duke of Hamilton

Marquess of Powis

Earl of Huntington

Earl of Craven

Earl of Berkeley

Earl of Murray

Earl of Middleton

Earl of Melford

Earl of Castlemain

Viscount Preston

Lord GODOLPHIN

Mr. Chancellor of the Exchequer

Mr. of the Rolls

Lord Chief Justice Herbert

Sir Thomas Strickland

Sir Nicolas Butler

Mr. Peter

Where-



Whereas in the Charters, Patents, or Grants made to severall Cities, Burroughs and Towns Corporate, a Power is reserv'd to his Majesty, by his Order in Council, to remove, displace and discharge the Mayors, Sheriffs, Recorders, Town-Clerks, Aldermen, Common Council-Men, Assistants, Officers, Magistrates, Ministers, Freemen and other Members of the same. His Majesty is this Day in Council pleased to order, and it is hereby order'd accordingly, That all Mayors, Sheriffs, Recorders, ~~Town-Clerks~~, Aldermen, Common Council-Men, Assistants, Officers, Magistrates, Ministers, Freemen, and other Members of the said respective Cities, Burroughs and Towns Corporate, which have, or claim such Offices or Places by Charter, Patent or Grant from the late King of blessed Memory, or from his Majesty since the Year 1679. except such Cities and Towns in his Majesty's Proclamation named, (whose Deeds of surrender are inrolled, or against whom Judgments in *Quo Warrants* are entred) be removed, display'd and discharg'd, in pursuance of the Power reserv'd as aforesaid, and they and every of them are hereby remov'd, displac'd, and discharg'd accordingly

*John Nicolas.*

The other is an Order of the King alone, in these Words,

*James Rex,*

Whereas in the Charters, Patents or Grants made to severall Cities, Burroughs, and Towns Corporate, a Power is reserv'd to Us to remove, displace and discharge by Order under our Signet and Sign Manual, the Mayors, Sheriffs, Recorders, Town-Clerks, Aldermen, Common Council-Men, Assistants, Officers, Magistrates, Ministers, Freemen, and other Members of the same. We do accordingly hereby remove, displace and discharge all Mayors, Sheriffs, Recorders, Town-Clerks, Aldermen, Common Council-Men, Assistants, Officers, Magistrates, Ministers, Freemen, and other Members of our said respective Cities, Burroughs and Towns Corporate, which have or claim such Offices or Places, by Charter, Patent or Grant, from the late King our Most dear Brother of ever blessed Memory, or from us since the Year 1679. except such Cities and Towns in our Proclamation nam'd, whose Deeds of surrender are involved, or against whom Judgments in *Quo Warrants* are entred: And they and every of them are hereby removed, displaced and discharged accordingly in pursuance of the Power reserv'd to us, as aforesaid, whereof all Persons concern'd are hereby requir'd to take Notice,

Given at our Court at Whitehall the 17th Day of October 1688. in the 4th Year of Reign.

By his Majesty's Command,  
Sunderland.



Upon all this I must ask pardon to say I can't see how any Whig can make this Clause of the 22d Article of the Treaty, impoverishing the Privy-Council of *Scotland* to return the Members of Parliament for that Kingdom, agreeable to the old Principles by which the Whigs acted in the latter end of King *Charles's* Reign, and in King *James's* Time.

We have had too much Experience of our Danger by false returns, and brib'd Members in *England*, to be jealous that the same thing may be easily effected in *Scotland*, and especially when we consider that the very same Parliament which fenc'd their Claim of Right, by making it Treason to Alter or Innovate the same, have not only pulled that to pieces, but broke down their whole Constitution, which their Ancestors had likewise fenc'd by Penalties of Treason, and the most solemn Oaths that could be devised, to tie up the Hands of their Princes and Parliaments from meddling with it. Then since no greater Security can be thought on than what the *Scots* had for their Constitution, who will be Guarantee that their Quota of Parliament Men, will not joyn with any of our future Managers and Princes, to pull down our Constitution, as they have done their own. For my part, I can never think our *Magna Charta*, Original Contract, and Claim of Right safe, with such Guardians. Our aspiring Princes have always found enough of such Complaisant Gentlemen in *England*. Therefore I see no reason why we should consent to a Plan for their having a Detachment of 61 more of the same sort in a constant readiness to march up from *Scotland*. On this Occasion, I hope you will allow me one Poetical scrap of *Latin*.

*Non tali auxilio nec Defensoribus istis  
Tempus eget.*

Can any thing, My Lord, be more Treacherous and Mean than for Men to degrade their own Country, and has not the Majority of the *Scotch* Parliament done this effectually?

Is it not plain that they have given up the Precedency of their Lords to all ours of the same Rank? and is it not as evident that they have not thought above 16 of their 156 worthy to be trusted with their Hereditary Power of Legislature and Judicature? Then for their Commons, its as plain they are degraded, since of their 152 not above 45 are by themselves thought worthy to bear any share of the *British* Legislature; and besides, they are thought absolutely unworthy to have any share at all of Sovereign Judicature, which the *Scotch* Commoners always enjoy'd hitherto as well as their Lords.

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Upon the whole, My Lord, to me it seems strange, that any *Englishman*, whose Province it is to advise or agree to things that pass in *Scotland*, should have so little regard to that just Ballance of Power, which has hitherto preserv'd our *English* Constitution, for I am apt to think that our own *Sc. line* will scarcely be bettered by such Alloy as we are like to have from *Scotland*, on the foot of the present Scheme.

For nothing can be more evident than that the Majority of their Parliament have neither thought their old Constitution worth keeping, nor taken much care about securing their new one. It's true indeed they have taken some care to swear succeeding Princes to preserve the Government of their *Rick*, but I find nothing of any Obligation demanded for what they have reserv'd as to their Civil Constitution.

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